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Attorney for Plaintiffs BARRY WHITE, JR.,
and DEMITRIUS ANDERSON

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BARRY WHITE, JR. and DEMITRIUS
ANDERSON,

Plaintiffs,

vs.

CITY OF ANTIOCH, JAMES HYDE, Chief
of Police, Antioch Police Department, in his
official and individual capacities; ALLAN
CANTANDO, Chief of Police, Antioch Police
Department, in his official and individual
capacities; OFFICER NICHOLAS CUEVAS
(#3920), OFFICER CHRIS WALTERS
(#3489), CORPORAL MIKE HULSEY
(#2356), CORPORAL KELLY OUIMET
(#2031), LIEUTENANT LEONARD
ORMAN (#1878), OFFICER MIKE
MELLONE (#4323), DOES 1 through 25, in
their official and individual capacities,

Defendants.

Case No.: C 11-04221 YGR

**STIPULATION AND ~~[PROPOSED]~~
ORDER TO STAY PROCEEDINGS
PENDING RESOLUTION OF CRIMINAL
PROSECUTIONS**

Judge: Hon. Yvonne Gonzalez Rogers

Stipulation and Order to Stay Action

White et al. vs. City of Antioch et al.
Case No.: C 11-04221 YGR

1 Plaintiffs Barry White, Jr. and Demetrius Anderson, and Defendants City of Antioch,
2 James Hyde, Allan Cantando, Nicholas Cuevas, Chris Walters, Mike Hulse, Kelly Ouimet,
3 Leonard Orman, and Mike Mellone, by and through their respective attorneys of record,
4 hereby stipulate to the following:

5 1. WHEREAS Plaintiffs filed a civil rights complaint in the United States District
6 Court in the Northern District of California on August 26, 2011, arising out of an incident
7 relating to the arrests of Plaintiffs by officers of the Antioch Police Department on August 29,
8 2009;

9 2. WHEREAS the Contra Costa County District Attorney's Office initiated
10 criminal proceedings against both Plaintiffs on or about May 24, 2010, in connection with the
11 incident relating to the arrests of Plaintiffs on August 29, 2009;

12 3. WHEREAS Plaintiff Barry White, Jr. is charged with the following felonies
13 related to that arrest: Penal Code § 245(c), assault with a deadly weapon, and Penal Code §
14 69, resisting an executive officer;

15 4. WHEREAS Plaintiff Barry White's preliminary hearing concluded in
16 December of 2011;

17 5. WHEREAS Plaintiff Barry White's defense relating to the criminal charges
18 alleged against him will not be ready for trial for at least another nine (9) months;

19 6. WHEREAS Plaintiff Demetrius Anderson is charged with the following
20 misdemeanor related to that arrest: Penal Code § 148(a)(1), delaying, obstructing or resisting
21 a peace officer;

22 7. WHEREAS Plaintiff Demetrius Anderson's defense relating to the criminal
23 charge alleged against him will not be ready for trial for at least another nine (9) months;

24 8. WHEREAS Plaintiffs intend to invoke their rights pursuant to the Fifth
25 Amendment of the United States Constitution in this civil action until the termination of the
26 criminal prosecutions against them;

27 9. WHEREAS the success of some or all of the claims brought against the
28

Defendants in this civil case may turn on the outcome of the criminal prosecutions against Plaintiffs;

10. WHEREAS Plaintiffs' claims against Defendants in this civil matter may be limited and/or barred should either of the Plaintiffs suffer convictions in relation to these pending criminal proceedings;

11. WHEREAS there are many overlapping and intertwined issues between the criminal and civil cases involving the Plaintiffs and going forward on the civil case while the criminal cases are still pending could lead to inconsistent rulings and/or verdicts.

12. WHEREAS on November 18, 2011, per Stipulation and Order, the previously assigned Judge, Hon. William Alsup, ordered this matter stayed in all respects due to the pending criminal proceedings involving Plaintiffs. (See Document 12, e-filed 11/18/11).

13. WHEREFORE, the parties, by and through their respective counsel, respectfully seek a further Order of the Court to:

- a. continue to stay this case until further Order of the Court,
- b. grant Defendants an extension of time to file a responsive pleading, such pleading to be filed no later than 20 days after the filing of an order lifting the stay in this action, and
- c. set this matter for a case management conference during the week of November 19, 2012, per the availability of the Court, with a deadline for the parties to file a joint case management conference prior to that date.

IT IS SO STIPULATED

DATED: January 26, 2012

LAW OFFICE OF JIVAKA CANDAPPA

By: /s/ Jivaka Candappa

Jivaka Candappa, Attorney for Plaintiffs,
BARRY WHITE, JR. and DEMITRIUS ANDERSON

Stipulation and Order to Stay Action

White et al. vs. City of Antioch et al.
Case No.: C 11-04221 YGR

1 DATED: January 26, 2012

MCNAMARA, NEY, BEATTY, SLATTERY,
BORGES & AMBACHER LLP

2 By: /s/ Noah Blechman


3
4 James V. Fitzgerald, III / Noah G. Blechman
Attorneys for Defendants,
5 THE CITY OF ANTIOCH, *et al.*

6 **ORDER**

7 Pursuant to the parties' stipulation and on a showing of good cause, this case shall
8 remain stayed in all respects until further Order of the Court. Defendants shall file a responsive
9 pleading no later than 20 days after the filing of an Order lifting the stay in this matter. This
10 matter is set for a Case Management Conference ^{at} ~~on~~ 2:00pm on November 19, 2012. The
11 parties shall file a Joint Case Management Conference Statement no later than two weeks prior
12 to the hearing.

13 **IT IS SO ORDERED.**

14
15 Dated: February 1, 2012

16 By: 
HONORABLE YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE